

In re TURNER ET AL., Application No. 09/784,787
Amendment B

REMARKS

The Office action dated June 28, 2005, and the references cited have been fully considered. In response, please enter the amendments presented herein and consider the following remarks. Reconsideration and/or further prosecution of the application is respectfully requested. No new matter is added herein.

Applicants appreciate the Office's examination of the application and for the help in putting it in condition for allowance. Applicants appreciate the Office returning the initialed, signed and dated 1449's indicating due consideration of the significant number of prior art references.

Applicants believe that the case is in condition for allowance, and respectfully request that all claim objections and rejections be withdrawn and the case passed to issuance.

The following remarks reference the same numbered paragraphs of the Office action to which they are directed.

Paragraph 1. Applicants appreciate the suggestions for claims 1 and 13. Although Applicants believe they are fine as previously pending, Applicants have amended the claims to clean up the language of the claims without adding any new matter. As such, Applicants request that all objects to the claims be withdrawn.

Paragraph 2. Applicants appreciate the Office's reading of the specification and claims 18-21, but Applicants respectfully traverse the § 112 written description rejections of these claims for use of the term "non-flow control traffic information". The specification as originally filed refers to "traffic and/or flow control information" (note, the use of and/or) in numerous places in the original filed application (e.g., p. 10, lines 24-29, p. 12, lines 3-15, p. 14, lines 10-21), and refers to "traffic and flow control information in numerous places in the original filed application (e.g., title, page 1, lines 7-8, p. 4, line 9, p. 5, lines 2-3, p. 6, line 15, p. 10, lines 10-11). Thus, the terms traffic and flow control are not exactly same. In one view, traffic information refers to the characteristics of the traffic in the switch, such as, but not limited to the volume of traffic in the various elements of the packet switching system (e.g., p.13, line 23

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to p. 14, line 4), which are accumulated and manipulated to get an understanding of traffic conditions in the switching system, and based on which, messages are distributed with flow control information, such as, but not limited to XON, XOFF, etc. for stopping, slowing down, speeding up, or resuming the sending of traffic (original filed application, p. 10, lines 10-14). Applicants use the term "non-flow control traffic information" as previously presented in claims 18 and 21 to clearly identify that claims 18-21 are referring to traffic information which does not include flow control information to avoid confusion of with a broad interpretation of traffic information. Applicants appreciate the Office raising this issue, as Applicants believe the broader claims are allowable, and therefore have removed the limitation/adjective "non-flow control" for the term "traffic information" from claims 18 and 21, and have added new dependent claim 25, which recites that the traffic information does not include flow control information as clearly support is provided by the application as originally filed for at least the reasons presented herein. Applicants therefore respectfully request the rejections to claims 18-21 be withdrawn.

Paragraphs 4-5. As Applicants believe the judicial doctrine of avoiding issues, Applicants have filed herewith two Terminal Disclaimers for this application in regards to US Patents 6,735,173 and 6,654,342, along with the requisite fees. Thus, the issue of obvious-type double patenting raised in the Office action has been rendered moot, which is the easiest and least financial cost alternative to Applicants. In doing so, Applicants do not admit to the statements in the Office action in paragraphs 4 and 5 as they are not applicable to this application and are effectively erased by the filing of these two Terminal Disclaimers.

Paragraph 6. Applicants appreciate the notification that that dependent claims 3-6 were allowable if re-written in independent form. As Applicants believe all other claim objections and rejections herein have been removed as discussed herein, Applicants have elected to leave these claims as dependent claims.

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Final Remarks. In view of the above remarks and for at least the reasons presented herein, all pending claims are believed to be allowable over all prior art of record, the application is considered in good and proper form for allowance, and the Office is respectfully requested to issue a timely Notice of allowance in this case. Applicants request any and all rejections and/or objections be withdrawn. If, in the opinion of the Office, a telephone conference would expedite the prosecution of the subject application, the Office is invited to call the undersigned attorney, as Applicants are open to discussing, considering, and resolving issues.

Applicants hereby petitions/requests a one-month extension of time, with payment for such extension of time provided by the enclosed credit card payment form (PTO-2038). Moreover, the Commissioner is hereby generally authorized under 37 C.F.R. § 1.136(a)(3) to treat this communication or any future communication in this or any related application filed pursuant to 37 C.F.R. § 1.53 requiring an extension of time as incorporating a request therefore, and the Commissioner is hereby specifically authorized to charge Deposit Account No. 501430 for any fee that may be due in connection with such a request for an extension of time. Moreover, the Commissioner is hereby authorized to charge payment of any fee due any under 37 C.F.R. §§ 1.16 and § 1.17 associated with this communication or any future communication in this or any related application filed pursuant to 37 C.F.R. § 1.53 or credit any overpayment to Deposit Account No. 501430.

Respectfully submitted,
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By



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